IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

WEDNESDAY, THE 14TH NOVEMBER 2007 / 23RD KARTHIKA 1929

WP(C).No. 22652 of 2007(V)

PETITIONER:

GAYATHRI CHARITABLE TRUST, REG.NO.290,
DR.AMBEDKAR ROAD, VENNALA, KOCHI-682028,
REP. BY MANAGING TRUSTEE, DIJIMOL KURIAN,
D/O P.C.KURIAN, AGED 31 YEARS, RESIDING AT
PUTHENMANATHNJAJI, THIRUVANIYOOR P.O.,
PUTHENCRUZ(VIA), ERNAKULAM DISTRICT.

BY ADV. SRI.M.R.HARIRAJ
SMT.REKHA VASUDEVAN
SRI.SURAJ.S
SRI.P.A.KUMARAN
SMT.VINEETHA B.
SRI.S.NITHIN
SRI.M.R.RAJENDRAN NAIR (SR.)

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY THE
SECRETARY TO GOVERNMENT OF KERALA,
DEPARTMENT OF HOME, SECRETARIAT,
TRIVANDRUM.

2. DIRECTOR GENERAL AND INSPECTOR
GENERAL OF POLICE, TRIVANDRUM.

3. SUPERINTENDENT OF POLICE,
PALAKKAD DISTRICT.

4. DEPUTY SUPERINTENDENT OF POLICE,
   PALAKKAD.

5. CIRCLE INSPECTOR OF POLICE,
   PUTHUSSERY, PALAKKAD.

6. SUB INSPECTOR OF POLICE,
   PUTHUSSERY, PALAKKAD.

7. HAMZA, SUB INSPECTOR OF POLICE,
   PUTHUSSERY, PALAKKAD.

ADDL.R8 TO R14 IMPLEADED

8. N.S.JOGESH, S/O SACHIDANANDAN, NADUVIL VEEDU, NILAYATHIRI, PUTHUSSERY P.O.

9. BABU, S/O SIVARAMAN, 4 CENT COLONY, PUTHUSSERY, KOLAYAKKODU, PALAKKAD.

10. MURALIDHARAN, S/O KRISHNANKUTTY NAIR, NADUTHARA, PUTHUSSERY.

11. SUBHASH, S/O MUTHUMANIKKA, KUNDUKAD, PUTHUSSERY.

12. SELVARAJ, S/O KUNJU (LATE), DO. DO.

13. PRASANTH, S/O LAKSHMANAN, DO. DO.

14. PRADEEP, S/O IDUMPAN, DO. DO. (DELETED)

Impleaded as per order dt. 17.8.07 in IA 11143/07

R14 deleted as per order dt. 22.10.07 in IA 14083/07

R1-R7 BY GOVT. PLEADER SRI.P.A.SALIM
R8-R13 BY ADV. SRI.SAJAN VARGHEESE K.
SRI.LIJU. M.P
SRI.M.N.SAJEER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WPC 22652/07

***PETITIONER'S EXHIBITS*:**

EXT. P1 TRUE COPY OF COMPLAINT DT. 23.4.06 SUBMITTED BY THE PRINCIPAL TO THE 6TH RESPONDENT

EXT. P2 TRUE COPY OF COMPLAINT DT. 25.4.05 SUBMITTED TO THE 6TH RESPONDENT

EXT. P3 TRUE COPY OF COMPLAINT DT. 3.5.07 TO THE 3RD RESPONDENT

EXT. P4 TRUE COPY OF COMPLAINT DT. 26.5.07 SUBMITTED BY THE PETITIONER TO THE 6TH RESPONDENT

EXT. P5 TRUE COPY OF COMPLAINT DT. 27.5.07 SUBMITTED BY THE PETITIONER TO THE 2ND RESPONDENT

EXT. P6 TRUE COPY OF COMPLAINT DT. 3.6.07 SUBMITTED JOINTLY BY THE MEMBERS OF THE PTA OF THE SCHOOL

EXT. P7 TRUE COPY OF COMPLAINT DT. 12.6.07 FILED BEFORE THE JFCM, PALAKKAD

EXT. P8 TRUE COPY OF COMPLAINT DT. 17.7.07 SUBMITTED BEFORE THE 5TH RESPONDENT

EXT. P9 TRUE COPY OF COMPLAINT DT. 21.7.07 SUBMITTED BEFORE THE 6TH RESPONDENT

EXT. P10 TRUE COPY OF THE COMPLAINT DT. 28.7.07 SUBMITTED BY THE PRINCIPAL OF THE GAYATHRI PUBLIC SCHOOL TO THE 5TH RESPONDENT

EXT. P11 TRUE COPY OF THE COMPLAINT DT. 30.7.07 SUBMITTED BY THE PRINCIPAL DO. DO. TO THE 3RD RESPONDENT

EXT. P12 TRUE COPY OF COMPLAINT DT. 16.8.07 SUBMITTED TO THE 3RD RESPONDENT

EXT. P13 TRUE COPY OF REPRESENTATION DT. 24.8.07 SUBMITTED TO THE 3RD RESPONDENT

EXT. P14 TRUE COPY OF COMPLAINT DT. 25.8.07 SUBMITTED TO THE THIRD RESPONDENT

EXT. P15 TRUE COPY OF THE LETTER DT. 13.10.07

EXT. P16 TRUE COPY OF TRUE COPY OF THE JUDGMENT DT. 29.3.07 IN CC 266/05 ON THE FILE OF THE HON'BLE JFCM, PALAKKAD

***RESPONDENT'S EXHIBITS*:**

EXT.R8(a) TRUECOPY OF THE PRESS RELEASE MADE BY THE PRESIDENT OF ADVISORY COMMITTEE OF THE GAYATHRI PUBLIC SCHOOL, PUDUSSERY DT. 9.11.04

EXT.R8(b) TRUE COPY OF THE NEWS COVERAGE CAME IN THE DAILY 'MADHYAMAM' ON 11.11.04

EXT.R8(c) TRUE COPY OF THE NEWS COVERAGE CAME IN 'MATHRUBHUMI' DT. 12.11.04

EXT.R8(d) TRUE COPY OF THE fir REGISTERED AGAINST V.GOVINDAN NAIR, DIJIMOL KURIEN AND SATHYABHAMA AS ACCUSED (FIR 297/04) AT THE COMPLAINT SUBMITTED BY A TEACHER SMT.PRINCY ON 18.11.04 IN THE KASABA POLICE STATION, PALAKKAD

EXT.R8(e) TRUE COPY OF THE REPRESENTATION DT. 4.7.05 SUBMITTED TO THE MINISTER FOR EDUCATION

EXT.R8(f) TRUE COPY OF THE LETTER DT. 22.8.05 SUBMITTED BY SHRI V.S.ACHUTHANANDAN TO THE THEN CHIEF MINISTER

EXT.R8(g) TRUE COPY OF THE ACKNOWLEDGEMENT SENT BY THE THEN CHIEF MINISTER TO THE OPPOSITION LEADER ON 28.3.05

EXT.R8(h) TRUE COPY OF THE PETITION DT. 22.10.05 SUBMITTED TO THE VANITHA CELL, DIST. POLICE OFFICE

EXT.R8(i) TRUE COPY OF THE NOTICE ISSUED BY THE VANITHA COMMISSION ON 26.9.05

EXT.R8(j) TRUE COPY OF THE PETITION SUBMITTED BY JISHIMOL ON 19.5.07 TO THE CHIEF

EXT.R8(k) TRUE COPY OF THE PETITION (DATED NIL) SUBMITTED BY THE PARENTS TO 3RD RESPONDENT

EXT.R8(l) TRUE COPY OF THE PETITION DT. 29.5.07 SUBMITTED BY SASIKUMAR, A PARENT TO THE DY. DIRECTOR OF EDUCATION, PALAKKAD

K.Balakrishnan Nair &
K.P.Balachandran, JJ.

W.P.(C)No. 22652 of 2007 V

JUDGMENT

Balakrishnan Nair, J.

The petitioner is a Trust, which is running a School in Puthussery Grama Panchayat in Palakkad District. Alleging that respondents 8 to 13 are causing obstruction to the functioning of the School and the police are not taking any action notwithstanding repeated representations, this writ petition is filed, seeking the following reliefs:

> "i. to direct the third respondent to grant protection to the Gayathri Public School, Kundukadu, Puthussery, Palakkad District, run by the petitioner trust, protecting the life and property of its teachers, officers, employees and students, and as also the property of the school, by deputing police

officers, who are not in the administrative control of the seventh respondent, and to ensure that law and order is maintained at the campus;

ii. to direct respondents 1 to 5 to investigate and take action on the complaints preferred against the seventh respondent by the officers of the petitioner trust;

iii. grant such other reliefs as may be prayed for and the court may deem fit to grant, and

iv. grant the costs of this writ petition."

2. The brief facts of the case are the following:

On 23.4.2006, when the Parent Teachers' Association of the School was meeting, some Teachers of a neighbouring School came and obstructed the same. So, immediately, Exhibit P2

complaint was filed before the Police. But, no action was taken.

3. The seventh respondent took over charge as the Sub Inspector of Police of the local Police Station in March/April 2007. Thereafter, he came to the School on 2.5.2007, abused the persons present there and created a scene. So, Exhibit P3 complaint was filed before the District Superintendent of Police on 3.5.2007. While so, on 25.5.2007, a group of persons led by the eighth respondent came to the School, manhandled the Principal, abused her and damaged the properties of the School. Though, the police were informed, the Sub Inspector of Police came to the School only by 7 p.m. in the evening. No effective action was taken. So, Exhibit P4 representation was filed before the Sub Inspector of Police on 26.5.2007, detailing the incident that took place on 25.5.2007. On receipt of Exhibit P4, the Sub Inspector of Police came to the hospital and

recorded the statement of the Principal of the School. While recording the statement, he misbehaved towards her. So, the Director General of Police was moved by filing Exhibit P5 representation against the said conduct of the Sub Inspector of Police. The same was followed by Exhibit P6 mass representation filed by the parents of the students of the School before various authorities. Later, the Principal filed Exhibit P7 private complaint before the Judicial First Class Magistrate's Court-I, Palakkad. The said complaint was forwarded to the police for investigation under Section 156(3) Cr.P.C. The police registered a crime. While so, on the night of 16.7.2007, the board of the School before its gate was cut and removed. The letters in the School gate were also damaged. So, Exhibit P8 complaint was filed before the police on 17.7.2007 regarding the theft of the School board and the damage caused to the gate. Another board of the School at Puthussery junction

was also cut and removed. So, Exhibit P9 complaint was filed before the police detailing the above incident. Feeling aggrieved by the inaction of the police and their hostile attitude towards the School and its functionaries, this writ petition is filed, seeking appropriate reliefs.

4. The learned senior counsel for the petitioner submitted that the police have a duty to maintain law and order. When cognizable offence is reported, they have to register a crime and investigate. They are duty bound to prevent commission of cognizable offences also.

5. A statement has been filed by the Circle Inspector of Police. He submitted that, based on the incident, which happened on 25.5.2007, a crime has been registered against the eighth respondent and six others as Crime No.161/07 for offences under Sections 143, 147, 323, 354 read with Section 34 IPC. Upon investigation, it was found that the above incident happened because the School

management refused to issue Transfer Certificate to one student called Shilpa, D/o Sasikumar. On the complaint of the parent of the said student, the Panchayat member Mr.Jogesh and other local people approached the School authorities for the issuance of the Transfer Certificate. The above crime and the commission of the offences arose out of the said incident. Later, the Principal of the School filed a private complaint before the Judicial First Class Magistrate's Court-I, Palakkad, implicating the Sub Inspector of Police. When the complaint was forwarded to the police, Crime No.183/07 was registered for offences under Sections 143, 147, 323, 354, 341, 448, 294(b), 506(I) read with Section 149 IPC and also under the provisions of Section 3 of the SC & ST (Prevention of Atrocities) Act. The case was investigated by the Deputy Superintendent of Police and further proceedings were dropped and to that effect a final report under Section 173 Cr.P.C. was filed before the

court. It is also submitted that the police are taking all steps to provide protection to the School. There are disputes between the parents and the management of the School. Patrolling is done around the School. No unlawful incidents are reported after May, it is submitted. A complaint was received from Mr.Babu, S/o Sivaraman against Mr.Govindan Nair, one of the Trustees of the School. Finally, it is submitted that the police are taking all possible steps to give protection for the smooth functioning of the School.

6. Respondents 8 to 13 have filed a detailed counter affidavit resisting the prayers in the writ petition. From the counter affidavit, it would appear that the parents of the students of the School have several grievances against the style of functioning of the School. So, they have filed various representations before the authorities against the alleged illegal running of the School. Another grievance raised is that for appointment of

teachers, the management have taken Rs.50,000/- from each of them and the management refused to return the said amount on their resignation/ termination. The grievances against the management have been brought to the notice of various authorities by various representations, some of which, are produced along with the counter affidavit. The newspapers have also reported regarding the alleged cheating from the part of the management.

7. The petitioner has filed a reply affidavit, dealing with the averments in the counter affidavit of respondents 8 to 13 as also in the statement of the fifth respondent.

8. We heard the learned Government Pleader and also the learned counsel appearing for respondents 8 to 13. They reiterated the respective contentions in their pleadings.

9. Having regard to the nature of the dispute raised in this writ petition and the allegations

and counter allegations contained in the writ petition, we feel that it will be sufficient to record the submissions of the Circle Inspector of Police, concerning the arrangements made for patrolling in the area and for affording police protection for the smooth functioning of the School. The submissions made in the statement of the Circle Inspector of Police, which we have already noticed earlier, are recorded.

10. The police shall ensure that breach of peace is averted and law and order is maintained in the School premises. This direction should not be taken as a direction against the parents of the students or the Teachers of the School. They have every legitimate right to voice their grievances and hold peaceful meetings, with which, the police shall not interfere. The police should take action, if there is any physical obstruction to the School or commission of any cognizable offence. If the petitioner has any grievance that the police are

not taking effective steps to register any crime or investigate the same, its office bearers can move the appropriate criminal court for appropriate reliefs. The petitioner can pursue the complaint filed by it against the seventh respondent before the departmental officials.

The writ petition is disposed of as above.

(K.Balakrishnan Nair, Judge)

14th November, 2007

(K.P.Balachandran, Judge)

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